



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/602,005 | 06/24/2003 | Philippe Blondel | ATOCM-333 | 7690 |
| 23599 | 7590 | 01/24/2006 | EXAMINER | |
| MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201 | | | SZEKELY, PETER A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 1714 | |

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/602,005

Applicant(s)

BLONDEL ET AL.

Examiner

Peter Szekely

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claims 18, 19, 26 and 27 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Linear low-density polyethylene, very low-density polyethylene and functionalized polyolefins are not homopolymers. See Polymer Science Dictionary, Second Edition, Mark Alger, Chapman & Hall, pp.290, 599 (enclosed).

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 12-31 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for non-halogenated flame-retardants, does not reasonably provide enablement for all flame-retardants. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. See page 1, lines 20-23 of the instant specification. Applicants did not respond to this rejection in their response.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 12-14, 20, 28 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishihara et al. 6,093,760.
6. Using the broadest possible interpretation of the instant claims, polystyrene is a polyolefin. See Polymer Science Dictionary, Second Edition, Mark Alger, Chapman & Hall, page 433 (enclosed). The rejection is maintained.

Response to Arguments

7. Applicants' arguments filed 12/14/05 have been fully considered but they are not persuasive. The examiner does not want to make this case to become the "Case of the Dueling Dictionaries", however while applicants can be their own lexicographers, they cannot interpret the same word both broadly and narrowly at the same time. There is nothing in the specification to exclude polystyrene as an olefin homopolymer. Alger says that polydienes and polystyrene, belonging a wider group of polymers, which are sometimes included as polyolefins, are normally excluded from the group, but since applicants include polydienes they cannot exclude polystyrenes. Furthermore, the following U.S. Patents clearly include polystyrenes among polyolefins at the cited places: Kinoshita et al. 5,439,976, column 7, lines 25-26, Hanada et al. 5,922,808, column 6, lines 21-22, Johnson et al. 6,218,493, column 71, lines 55-56, Higuchi et al. 6,780,483, column 6, lines 22-23, Cicchetti et al. 5,948,837, column 1, lines 12-14 and Agarwal et al. 6,780,936, column 4, lines 7-8. As far as the contradiction between Alger

Art Unit: 1714

and the patents is concerned, when a prior art reference appear to be conflicting, each reference must be weighed for its power to suggest a solution to the artisan of ordinary skill. Thus, reference "B" even if tending to discredit reference "A", cannot remove "A" from the prior art. Patents are part of the literature of the art and are relevant for all they contain. In re Young 18 USPQ2d 1089, (Fed. Cir. 1991). The rejection is maintained.


8. **THIS ACTION IS MADE FINAL.** Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Szekely whose telephone number is (571) 272-1124. The examiner can normally be reached on 7:00 a.m.-5:30 p.m. Tuesday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Peter Szekely
Primary Examiner
Art Unit 1714

P.S.
1/19/06